

INJUNCTION CASE HAS ANOTHER HALT

COURT STATES THAT IT IS ALWAYS PRESUMPTION THAT PLAINTIFF IS PREPARED, AND PUTS CASE OVER ONE DAY

No start was made of the trial of the Hiram Murdoch injunction proceedings against the Klamath county court in circuit court Friday morning before Judge J. S. Coke of Marshfield. Attorney C. C. Brower was not ready to try the case, and after a good deal of sparring between Attorney Thomas Drake and him, court finally decided that the case should proceed tomorrow at 9 o'clock.

When court convened at 9 o'clock Attorney Brower said that he was hardly prepared to go on with the case, that the first intimation that he had of the Marshfield judge coming to take up the case was Tuesday. He suggested to the court that some time next week would be far preferable to the plaintiff in the case, and indicated that he thought the depth of the interest of the plaintiff and the people in the matter was such that it should be well prepared.

"It is not what the 'people' want in this case, your honor," insisted Attorney Drake. "The plaintiff in this matter is one person, and there are no 'people' in that side of the proceeding. We were satisfied with your honor's ruling yesterday as to our demurrer, which would make it necessary for the case to be tried.

"The other side must have presumed that the county court would make an answer in the case, and when you overruled the demurrer we were prepared to file an answer in a very short time, and did so. They had time to digest that feature of the case and be prepared. They brought this matter of an injunction a month since, and the talk of being surprised at the case coming up for trial at this time, and not being prepared, coming from them, makes it look absurd, to say the least. We don't object, your honor, to giving them a reasonable time for them to meet our answer, but to give them days after all that has happened is highly unreasonable. You have come here to try this case, and it was really more in their interest than in ours. They brought this suit—not we. We are on the defense. It is not our contention that has to be fought out. The idea of adding to the expense of the county by delay when they are supposed to be fighting for economy is hardly consistent.

"Our presiding judge refused to act in this matter, and for that reason it was necessary to go to the expedient of bringing in a judge from a remote part of the state to hear this case, resulting in the coming of your honor. It is to the interest of the 'people' they speak of to have the case disposed of at once, as speedily as possible."

"If your honor please, the county is not being put to expense in this equity proceeding as though it were a law case," answered Attorney Brower. "Our contention is as to the amount of notice. We had absolutely no notice whatever from Judge Benson that he was going away for the purpose of obtaining another judge to take up this issue, and we have no notice from him since he has been gone. Since he left we received word which purported to come from him, but in advance we received no intimation that the case would ever be tried. There is no record that your honor was coming, no notification was given to the clerk of this court. There has not been a scintilla of real notice given that yourself or any other judge would be here at this time.

"There are some men unfortunately so constituted by innate nature, even though they are in that dignified profession which we know as the law, that they cannot get up to address a court without making remarks that are unjust and uncalled for. The attorney has seen fit to speak in a 'slurring' manner of our referring to the people. It is true that we did so refer and believe that it was proper to speak so."

"While it is not exactly regular, your honor, I would like to reply to the gentleman's remarks," said Attorney Drake. "I did indulge in some strictures, as he says. They were justified. Here some time since the counsel for the other side made a trip away from this city to get Judge Calkins at Ashland to sign the injunction which they are seeking to have enforced here. We were informed of it after he had left. No notice was given us. The county judge, on being informed of the matter was advised by his counsel to communicate with Judge Calkins, and called that gentleman up by telephone and told him the court would object to his taking up the matter, especially as he was outside this jurisdiction. It was an endeavor to get this thing worked around in an ex-parte manner. They thought they would work snap judgment on us, but they did not make it.

"Just about this time I was away in Portland on some matters, and while there happened to meet our presiding judge, Judge Benson, who told

me he was there to try to get Judge Gantenbein to take up this matter, thinking that that judge was far enough removed from the scene to take it up with propriety. As to the 'people,' I think we, not they, represent the people. We represent Klamath county. Another feature of delay is that it may hinder the exercise of official functions and delay public work."

Attorney Brower said that he went to see Judge Calkins at the suggestion of Judge Benson, and that the matter was never presented to Judge Calkins because his honor had so much work ahead.

Judge Coke stated that outside the allegation in the complaint there was very little to the answer filed by the defendants, and that the matters raised were very few outside of what had been related in the plaintiff's bill.

Judge Coke had Bailiff Clarence O. Morgan summon Court Stenographer R. M. Richardson to find out when the attorneys in the case were notified of his coming. Mr. Richardson said he had received on Monday evening a letter from Judge Benson and had notified counsel for both sides the next morning—Tuesday.

"We have to have time to get witnesses," said Attorney Brower.

"The plaintiff is always presumed to be ready for trial," his honor remarked. "While personally it would please me to be able to grant any delays that courtesy would prompt, I am afraid that policy were pursued in court matters it would greatly retard the progress of litigation. It will be necessary for the court to set a time for proceeding with this case. I will fix Saturday morning at 9 o'clock, and I hope you gentlemen will be ready to go ahead. It is to be hoped that everything will be arranged so that the matter can be proceeded with expeditiously and concluded at the earliest possible period."

Attorney Drake expressed his opinion to the court that the case could be tried in one day, probably. Attorney Brower said Thursday that the evidence would be mostly record evidence.

APPLIGATE WINS WITH NICE LEAD

KLAMATH COUNTY WILL BE REPRESENTED AT NATIONAL REPUBLICAN CONVENTION BY WELL KNOWN VETERAN

According to information received by the Republican from Portland Klamath county will be represented in the republican national convention with Captain O. C. Applegate as one of the Oregon delegates. It appears from tabulation of the unofficial complete returns from the various counties that Captain Applegate received a vote that gave him considerable lead over several from populous sections of the state. While later and complete returns may change the result, it appears conclusive that the Klamath candidate won.

It will be especially gratifying to the local republicans who urged Captain Applegate to get into the race if the report is correct, and must be pleasing to the veteran stalwart of the party that he received a very large endorsement in Jackson, Douglas and other counties where he was best known.

DAREDEVIL BIRDMAN SEEKS DEPUTY SEAT

PARIS, April 26.—Charging fraud, Jules Vedrines, the daredevil French birdman, yesterday in the chamber of deputies began his contest for the seat won by M. Benaill at a special election at Limoux in March. Vedrines lost by about 699 votes out of a total count of 15,000.

Vedrines is the first aviator to run for office. He made a unique campaign, flying 75 miles an hour from one speaking place to another.

Alighting in a village street he would gather a crowd about him in a twinkling. He also flew from farm to farm, and covered the entire district in a week.

POWERFUL WIRELESS PLANT FOR TATOOSH

BREMERTON, Wash., April 26.—The most powerful wireless station in the world will be installed on Tatoosh Island, at the entrance of Puget Sound, according to the plans being made by the navy department. By virtue of its commanding position, which places it in range with the trans-Pacific steamers, and as a link to the numerous stations toward the Alaskan territory, the action has been decided upon.

PLACE REFUSE IN BOXES ON "CLEAN-UP" DAY

The committees which have been appointed for "clean-up" day to look after the hauling of refuse next Monday, request that all of the citizens in cleaning up their yards place the refuse in barrels or boxes in the streets, so that there will be no delay by the teams in collecting same.

MAYOR WILL SEEK OFFICE AGAIN

SANDERSON IS FIRST CANDIDATE FOR MAYOR TO BEGIN THE CIRCULATION OF PETITIONS FOR NOMINATION

F. T. Sanderson is the first candidate for mayor to begin the circulation of nomination petitions. For petitions of Mayor Sanderson were being circulated Friday afternoon. It is not yet known who will oppose Mr. Sanderson, although considerable pressure is being brought to bear on Police Judge T. F. Nicholas to induce him to become a candidate.

ABSORB CORPORATIONS, MISSOURIAN SUGGESTS

ST. LOUIS, April 26.—A novel plan for improving business conditions in this country, which is attracting the attention of thinking men, has been proposed by Leonard Matthews, a millionaire banker, broker and business man of St. Louis. Matthews' views are set forth in a series of pamphlets, copies of which have been sent to President Taft, Theodore Roosevelt, members of congress, justices of the United States supreme court and other men of prominence.

Matthews declares in his pamphlets that the present condition of things under which three-fourths of the wealth of the country is owned and controlled by less than one-tenth of the population is wrong and demands remedy. He proposes the absorption of all business corporations of the country in a central, co-operative holding concern owned by the people and supervised by the government, which he says will give the farmer and laborer, the sources of all wealth, their just return.

Matthews is 83 years old, and is still active in business, spending several hours every day in his downtown offices. He has been a deep thinker on business subjects, and the plan that he proposes is the result of deep pondering on the best way to bring about a change without causing business disaster in effecting the transition. Matthews has a beautiful home at 5447 Cabanne avenue, and his family is prominent socially.

"Thinking men are beginning to realize that there must be a change in conditions," Matthews declares.

"The keynote of the plan I suggest is sensible co-operation for the good of all. In the last issue of the Outlook Theodore Roosevelt advocates co-operation among the farmers. Mr. Roosevelt states in the article that it is essential to the welfare of the farmer that he take advantage of a co-operative plan. Mr. B. F. Yoakum of the Pacific railroad, in a recent article stated that small co-operative companies have been successful in Europe and predicted that a larger company of that nature will be formed eventually in this country.

"The central holding concern which I propose I would call the Eota company, the name being the acronymic of the slogan 'Equal Opportunities to All,' which the company would give. The concern would operate in perpetuity under a federal charter, with unlimited capital. Stock could be owned by anyone who cared to buy it."

"To bring about the change from the numerous corporations of the present to a single co-operative corporation, my plan is to have all existing corporations and corporations which may be formed in the future, operate under a federal charter, limiting their capital and term of existence. It also provides that 2 1/2 per cent per annum be set aside for a sinking fund from which the stockholders are to be reimbursed at par at the expiration of the term of existence when the corporations will be taken over by the Eota company.

"Twenty-five years would be a reasonable time in which this could be brought about, and which would allow sufficient time for corporations to accumulate enough to reimburse their stockholders and permit the expiration and adjustment of all outstanding obligations, such as leases and bonds. Another safeguard would be to make all stock held by any person in any corporation, including the Eota company, above \$150,000, subject to call at par. Prices, salaries of officials, wages, insurance premiums, freight rates and such things would be regulated by a federal commission.

"The Eota company should not be permitted to pay dividends in excess of 6 per cent. The proceeds over that amount could be used to pay state and national taxes, build roads, drain the swamps, make river navigable, construct museums, zoological gardens and other means of enlightening and improving the minds of the people. The economical conduct of the business of the Eota company would reduce the payment of high wages, and reduce the retail price of the necessities of life from one-third to one-half. Thus the cost of living would be reduced, the buying power of money enhanced, and the condition of the people who perform the necessary labor would be improved."

FLOWERS SUBJECT OF CHAMBER LUNCH

BEAUTIFYING OF CITY STRONGLY ADVOCATED AND FLOWERS SUITABLE TO CLIMATE ARE SUGGESTED

"Flowers" was the subject of the Klamath Chamber of Commerce noon day lunch at the Baldwin hotel Friday, the banquet boards being set up in the spacious lobby. There was no lack of good things to eat, with surroundings prepared especially for the occasion, with floral decorations of an appropriate nature. The attendance was large and W. A. Deltzell acted as toastmaster.

In opening the toastmaster said his own experience with flowers was limited, but he had bought a few, although he had not had much luck in raising them. There was one flower he was always in sympathy with, that being the "wallflower" so he would call, he said, on Prof. Rosell H. Dunbar, city superintendent of schools. This was the signal for a laugh at the expense of the educator, who took part in it himself.

"I am reminded of a quotation which was once used in school by a little boy," he said. "It was, 'Woman—without her, man is a beast.' The little boy in announcing it said 'Woman without her man is a beast.'"

"Women are closely identified with flowers, and while it has been said by our toastmaster that Eve was decorated with flowers, I am not informed on the point, but no doubt Adam had the opportunity of choosing the flowers with which to decorate her. I think every woman is a flower. If I had my choice of flowers or women I'd take the women. Let everybody who's with me say so. 'Aye, stand up.'"

This caused fun at the expense of Secretary Caleb T. Oliver, who was busy with his food, but he finally got into condition to say, "I'm with you."

"I'm mighty glad of this movement of cleaning up," declared the speaker. "I wish all these tables were filled up. I wish all the business men in town were here. We ought not to have any east or west to this town. All of us ought to stand together. We are all for progress, for beautifying the town. I believe, as I told you the other day, that the water company stands ready to give us a rate so low for water for lawns and flowers than any difficulty in that direction will be removed, practically, in very short order.

There is no reason why we should not make this city beautiful to the eye, especially to the eye of the stranger. Here we are, with Portland far away, and San Francisco, too, and we can be a city by ourselves.

"Are there any factions in our city, Mr. Toastmaster?"

"I don't know of any," the toastmaster softly answered.

"Well, if there are, let's get after some of the old fellows who are keeping at that sort of thing. Let's all get our mallets and knock 'em on the head. The pupils in the schools this morning demonstrated that they are in sympathy with this clean-up undertaking. They are enthusiastic about it. We can and should make a prominent and valuable day."

The toastmaster at the conclusion of the remarks of Prof. Dunbar, said he believed it likely that when Adam and Eve were evicted from the Garden of Eden that they must have lingered with Eve some remembrance of the garden, so that when she went elsewhere she wished to beautify the places she visited by reproducing some of the charms of Eden. It had, he said, apparently been ever since that the love of flowers remained with woman, and led her to look after the flowers and pattern places after Eden.

He then called on Mrs. Sargent as a woman who had made a grand success of raising flowers. She said it was hardly fair to call on her, as she came not expecting to be called on. She said she had not raised any outside flowers, but indoors had cultivated some beautiful ones, never using anything but the natural soil. She said if she were given this summer she would show what she could do outside.

Hunter Savidge told the gathering that his experience with flowers was limited, but that he had accumulated some experience as a juvenile, for when he wanted to play in the ball games he was often called on to spade up the flower bed, weed the garden, or do some similar work. He said he enjoyed and appreciated flowers.

"When I came to Klamath Falls a few years ago it was barren of anything save buildings," he related. "We ought to change this. The appearance of the city, its barrenness, is what impresses people from the East. I think the movement to improve our condition is a step in the right direction. It means much to the prospective or possible settler—the appearance of the city. If he sees a city with flowers, trees and nice lawns it looks mighty good to him, especially after coming across the continent and seeing nothing of the

kind along the road. I'll do all I can to help this matter along.

"I have tried raising flowers, but being a bachelor, I sometimes forget to look after them. One great drawback to flowers is alkali, and how to deal with it is a problem that you could work on.

"Some Eastern cities have made great strides in beautifying their streets and home spots. Grand Rapids, Mich., offers prizes for the best accomplishment along this line, and if you get off a train there and ride through the city you will be surprised at what you see on every hand. Grand Haven, Mich., also offers free trees, free seeds and free shrubs to old and young to secure the best gardens and best lawns."

Mrs. Elmer Applegate, when called upon, said that in planning their new home her husband and she decided to plant the hardy perennial shrubs, and not overlook the old-fashioned flowers like the hollyhock, the Golden Glow, Canterbury Bell, the old-fashioned Sweet William, marigold, daisy and pansy.

"If there's a place in the world where the pansy grows to perfection it is Klamath Falls," she said. "One morning I gathered eighty from one plant, and I could have done it the next day, too. The California poppy is another plant it is desirable to have."

She told the story of a woman who rode in a train and who scattered seeds of the poppy from the car window along the ride, in order to help beautify the country, and she lauded the spirit which prompted the woman to do it. She advocated the planting of shrubs, the snowball and azalea. Mrs. Applegate expressed the wish to see bulbs grow, saying they could be had in winter and summer, and told how to use the ground twice if one had but a small space. She spoke of the hyacinth and Chinese sacred lily, and closed by quoting a Tennyson verse.

Judge George T. Baldwin said he did not believe anybody appreciated flowers any more than he, but gave all the credit for their cultivation to Mrs. Baldwin, referring to a tulip bed twelve feet square on their place. He said the French rose grew splendidly, and he had picked up buds on Christmas day, frozen, of course, but showing the plant had made the effort.

"We can have roses on the hillsides," he said, "for there are no trees there to interfere, and they will get plenty of sun. As for a lawn, I don't care so much for one, but I do love flowers. Most men don't like lawns, because of the necessity of their trimming them. I'm in favor of a small sidewalk in the winter and a small lawn in the summer.

Mr. IWhthrow and I have pulled down our partition fence and planted roses along."

"Who was it planted the watermelons, he or you?" the toastmaster wanted to know.

"Well, I don't care much about watermelons," said the judge with a queer little smile. He went on to say that he had planted some peach trees, one of which died. They were planted in 1889, and in 1889 he had a great crop. He spoke of the mountain ash, which flourishes at Moscow, Idaho, where every fall they are in full flower with their red berries, and he believed they could be grown here.

"The cherry tree is one of the first trees to leave, and the leaves stay on the longest," he asserted. "Everybody ought to plant some cherry trees, no matter what the result. Nothing is more attractive than a cherry tree in bloom."

Asked as to the honeysuckle, he said he was against the honeysuckle, as the odor was offensive. This might have been because they were plentiful back in Missouri. He said they would grow all right.

"Never has a winter killed our roses," he said. "We have never protected them in any way. You can put them on these hills and they will be seen from everywhere. The soil is rich, and you can get some leaf mold and fix for them."

ALL WIRELESS FEDERAL, IF BILL GOES THROUGH

WASHINGTON, D. C., April 26.—Representative Berger today introduced a bill proposing government ownership of the wireless telegraph, involving the creating of a federal wireless bureau under the department of commerce and labor.

This bill is believed to be the result of the suppression of the truth of the loss of the Titanic for many hours after it occurred.

CRUISER'S HULL HURT IN TORPEDO PRACTICE

LONG BEACH, Calif., April 26.—Attempt is being made to learn the extent of damage to the hull of the cruiser Maryland, sustained during torpedo practice off this city. The Maryland lies in the lee of the San Pedro breakwater, listing to the starboard, her hull reported punctured by continual bumpings from dummy torpedoes during the mimic engagement. Divers are inspecting the ships plates.

PAVING COMBINE CLEARLY ILLEGAL

SUPREME COURT RULES THAT CONTRACTS ARE VOID WHERE BIDS WERE RESTRICTED TO ONE PARTICULAR PAVING

According to a decision just handed down by Judge Bean of the supreme court on an appeal of a case from Portland, a city cannot restrict bids for street improvements or paving to a particular kind of patented paving material. As this has been the custom in Klamath Falls as well as many other of the cities of the state, the decision will probably affect all future contracts, and is believed will mean cheaper paving for the cities. Following is the dispatch from Salem covering the decision:

Probably nothing could bolster up the fight being waged by the Portland city administration against paving combines and for cheaper pavements more than the decision written by Justice Bean and handed down by the supreme court in the case of Terwilliger Land company against the City of Portland, Oregon Hassam Paving company, and the Title Guaranty & Surety company.

The opinion reverses the decision of Judge C. U. Gantenbein and holds that a contract for street paving, entered into between the city of Portland and the Oregon Hassam Paving company is void because the city advertised for bids on a particular kind of patented paving material, thereby eliminating competition.

Until the present city administration took up the fight it was the custom in the city of Portland to let practically all paving contracts in this manner, and according to this decision all of such contracts were illegal. This suit was brought to declare void thirteen contracts between Portland and the Oregon Hassam Paving company, the cost of the proposed improvements aggregating approximately \$800,000. The circuit court sustained a demurrer to the complaint, and from a decree entered dismissing the suit, plaintiff appeals.

"It is a well settled general rule, that all contracts, in which the public are interested, which tend to prevent competition required by statute, are void," says the opinion.

"It is clearly set forth in the complaint that, by the insertion of the trade name, 'Hassam Pavement,' in the ordinance and proceedings for letting the several contracts, competition among those who might desire to become bidders for the work of improving the streets, was restricted," continues the opinion, "and a monopoly in favor of the paving company created. The proceedings taken by the city officers and the notice inviting bids for the work were, in effect, to practically request bids from one certain company. Such acts on the part of the municipal body are subversive of the rights of the citizens and a flagrant abuse of the authority conferred by the city charter. The alleged contracts fall under the ban of the general rule of law, and should be declared inoperative and void.

"We think the demurrer to the complaint should have been overruled. The judgment of the lower court will therefore be reversed and the cause remanded for such further proceedings as may be proper, not inconsistent with this opinion."

CENTENARIAN CIGARETTE SMOKER IS AFFECTED

SAN BERNARDINO, Calif., April 26.—"I've been smoking cigarettes ninety-nine years, but I'm afraid they are getting me now," said Patrio Jaines, 194 years old, the patriarch of San Bernardino Valley Indians, today.

His remark followed a visit of a physician, the first to attend the old man in all his long life, after Jaines had fallen to the pavement and lost consciousness.

"I think it was the cigarettes," he continued. "They are making me weak. I'm afraid I'll have to quit smoking till I feel better."

DEFEAT REBEL FORCE IN DECISIVE ACTION

TUCSON, Ariz., April 26.—Federal troops under Generals Iturbe and de la Roche have inflicted a decisive defeat upon the advance guard of the rebel force that is advancing on the city of Tepic, according to announcement made here today. The federals, numbering 400, completely routed the insurgents, who left many of their dead or wounded on the field.

Dispatches state that heavy rebel reinforcements are being rushed to the scene of the fight from Culicón. These should arrive some time today.

EX-CONVICTS CONVENE FOR MUTUAL INTEREST

BUCHAREST, April 26.—A congress of ex-convicts, the first of its kind, is to be held here for the purpose of forming an international association of men who have served jail sentences. The promoter of the scheme is Constantin Lanescu, who has himself served several terms in jail, and who declares that society is cruelly unjust to ex-convicts.